

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

**Number: 201028043
Release Date: 7/16/2010**

Employer Identification Number:

Contact Person - ID Number:

Date: 4/22/2010

Contact Telephone Number:

LEGEND

UIL 4945.04-04

x= range of dollars

Dear :

We have considered your August 7, 2009 request for advance approval of your grant-making program under section 4945(g)(3) of the Internal Revenue Code.

Our records indicate that you were recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that you are classified as a private foundation as defined in section 509(a).

Your letter indicated that you will operate a grant-making program to award grants to individuals to create a new dance work or complete a partially-created dance work. You expect to award at least one grant annually to emerging choreographers in the United States of America or abroad who are in need of grant funds.

The objective of your grant-making program is to support the creation or completion of new dance works and to bring these works into the larger public repertory. By providing needed funding to emerging choreographers working on creative and dynamic new dance works, you will make these new dance works available to the general public and raise public awareness and appreciation of the art of dance in multiple communities across the country.

Grant recipients will be selected without any action on their part to receive the grant. In order to identify eligible recipients of the grants, your grant program director and other members of your selection committee will confer with professionals in the fields of dance and choreography around the nation, as well as with the artistic and executive directors of performing art institutions. All of these individuals are immersed in the modern and ballet arts and regularly work with numerous choreographers as part of their own programming endeavors.

A committee consisting of (a) the individuals who serve from time to time on your board of directors, (b) your executive director, and (c) your program director, will select recipients of your grants based on the criteria set forth below. Your selection committee will consult, as necessary, with other professionals in the fields of choreography and dance regarding the selection of grant recipients.

Grants will be awarded based on recipients' prior work in the field of choreography and suitability to the dance company/ies or performance venue(s) in which the dance work will be performed.

Grant recipients will be selected by your selection committee based on their expertise, interest and accomplishments in dance and choreography and their expected contributions to the fields of dance and choreography. All grant recipients will be selected on an objective and non-discriminatory basis without regard to race, gender, religion, national origin, ethnicity or sexual orientation.

Each grant will be awarded in the range of x dollars, an amount sufficient to pay for some or all of the expenses of creating a new dance work or completing a partially-created dance work.

The terms and conditions of each grant to an individual will be contained in a letter of agreement sent to the grant recipient. The grant recipient will be required to sign a copy of the letter of agreement and return it to you in order to confirm his or her acceptance of the terms and conditions. Terms and conditions of the grants will include a description of the specific purpose of the grant; its duration; the expenses to be paid by the grant; and the requirements for annual and final reports to you, including the due dates for the reports. The specific purpose of each grant will be to improve or enhance an artistic capacity, skill or talent of the grant recipient through the creation of a new dance work or the completion of a partially-created dance work.

Payment of the grant funds will be made either directly to the individual grant recipients or to a dance company or non-profit organization with which the individual grant recipient is working. In either case, you will control the selection of the grant recipient.

You will require each individual grant recipient to submit a report at specified periods, which will be at least once each year, detailing the use of the grant funds and the progress the grant recipient has made toward achieving the purposes for which the grant was made, as well as accounting for the funds that have been spent up to the date of the report. Upon final expenditure of the grant funds, the grant recipient will be required to make a final report describing the grant recipient's accomplishments with respect to the grant and accounting for all the funds received under the grant.

The members of your selection committee will not be in a position to derive a private benefit, either directly or indirectly, if certain potential grant recipients are recommended or selected, as the case may be, over others.

No grants will be made (i) to your substantial contributors, (ii) to your directors, (iii) to any member of your selection committee, (iv) to any family members of any of the persons listed in clauses (i) through (iii) above, or (v) to any disqualified person with respect to you. In addition, no grants will be made for a purpose that is inconsistent with your charitable and educational purposes.

In the event a grant recipient fails to comply with the terms and conditions of the grant (including the requirement to submit annual reports and a final report once the grant funds have been fully expended), as set forth in the written letter of agreement between you and the grant recipient, you will conduct an investigation and take all reasonable and appropriate steps to recover any funds that the grant recipient has used for an improper purpose.

If you determine that any part of a grant has been used for improper purposes, you will take all reasonable and appropriate steps to recover diverted grant funds or to insure the restoration of diverted funds and the dedication of other grant funds held by the grant recipient to the purposes being financed by the grant. These steps will include withholding any remaining disbursements of the grant funds until you have received (i) the grant recipient's assurances that future diversions will not occur and (ii) any delinquent reports from the grant recipient. These steps will also include, if necessary, legal action unless such action would in all probability not result in the satisfaction of execution on a judgment.

You will maintain records relating to all grants for a period of four years after each grant is awarded. These records will include a list showing the name and address of each grant recipient, a description of the expenses funded by the grant, and reports received from the grant recipient.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or

- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award program will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system's standards and procedures designed to result in awards which meet the requirements of section 4945(g)(3) of the Code. This determination only covers the grant program described above. Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any and all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to you. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Version of this Letter